

Notice of Allowability**Application No.**

09/758,001

Examiner

Hai Vo

Applicant(s)

BURGER ET AL.

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the filing of 09/16/2004.
2. ☒ The allowed claim(s) is/are 1,3-11 and 14-21.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 0922.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: Note that Applicants' amendment is sufficient to overcome the art rejections and double patenting rejections and sufficient to place the application in condition for allowance. Support for the amendment " the foamed polymer layer is substantially free of cellulosic filler and inorganic filler" appears at page 12, lines 1-2 of Applicants' specification.

The art rejections over Stucky et al (US 6,344,268) in view of Deaner et al (US 5,486,553) have been overcome by the present amendment. Stucky discloses a composite material for use in door and window sills and sashes comprising a foamed polymer layer and a synthetic wood layer being co-extruded onto the foam layer (column 3, lines 5-10). The foamed polymer layer of Stucky comprises 25 wt% to 65 wt % wood fiber which is a required component of the foamed polymer layer (column 4, lines 8-10, tables I, II). Likewise, Stucky does not teach or suggest the foamed polymer layer that is substantially free of cellulosic filler and inorganic filler.

The same token is applied to the art rejections over Woodhams (US 5,474,722). Woodhams teaches a rod having a foam core surrounded by a solid skin of the same composite compound. Woodhams discloses the circular polypropylene integral foam profile for use in window and door frames comprising 50 wt % sawdust which is a required component of the foamed polymer layer (example 1). Likewise, Woodhams does not teach or suggest the foamed polymer layer that is substantially free of cellulosic filler and inorganic filler.

Similarly, the double patenting rejections are withdrawn in view of the present amendment. The foamed polypropylene core of the US Patent no. 6,579,605 comprises one cellulosic filler in an amount of 10% to 60% by weight (claim 4). Therefore, the US Patent no. 6,579,605 does not teach or suggest the foamed polymer layer that is substantially free of cellulosic filler and inorganic filler.

Accordingly, since the prior art fails to teach or suggest such a component as recited by the instant claims, the instant claims are deemed allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the lines and numbers of all the figures are not uniformly thick and well defined. Correction is required. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485.

The examiner can normally be reached on M,T,Th, F, 7:00-4:30 and on alternating Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HV



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